IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 4403 of 2007()

(CRIME NO.451/2007 OF THIRUVALLA POLICE STATION)

PETITIONER: APPLICANT/3RD ACCUSED:

T.S. CHACKO @ THAMPI,
THAIPARAMBIL HOUSE, ERAVIPEROOR VILLAGE,
THIRUVALLA TALUK.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM (ADDL.SUB INSPECTOR OF POLICE, THIRUVALLA).

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4403 of 2007

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Dated this the 20th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 3rd accused. Altogether there are 3 accused persons. They face allegations, inter alia, under section 394 IPC. The crux of the allegations is that the defacto complainant was attacked and robbed of all his valuables belonging including currency worth Rs.25,000/- by three unknown miscreants. The alleged incident took place on 15.06.07. The complaint was lodged only on 8.7.07. The accused 1 and 2 have been arrested. On interrogation of those accused persons, the information about the culpable involvement of the petitioner was allegedly revealed. Investigation is in progress. The booty has not been recovered in full so far. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The delay in filing the complaint was reveals want of bona fides on the part of the complainant. At any rate, the petitioner does not deserve to endure the trauma of incarceration in prison. Anticipatory bail may hence be granted to the petitioner. He is an employee of the BSNL. He is a heart patient, submits the

learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The allegations are serious. There is no motive for any one to falsely implicate the petitioner. Custodial interrogation of the petitioner is essential for a proper investigation into the crime. In these circumstances, there is absolutely no merit in the prayer to arm the petitioner with an order of anticipatory bail at this stage, submits the learned Public Prosecutor. This is a fit case where the petitioner must resort to the ordinary and normal course of appearing before Investigating Officer. He must then seek regular bail in the normal course. This petition may in these circumstances, be dismissed, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. In coming to this conclusion I do take note of the very important aspect pointed out by the learned Public Prosecutor that even the petitioner does not have a case that the power to arrest, which the State and its officials have, is about to be invoked and exercised for any foul or unfair reason. The complicity of the petitioner is indicated convincingly from the materials presently available, including the confession statement of the co-accused. Any honest and sincere investigator must in these

circumstances, want to interrogate the petitioner and ascertain the details. I am satisfied that the petitioner is not entitled to the invocation of the extraordinary equitable discretion under 438 Cr.P.C. This petition is in these circumstances, dismissed. Needless to say, if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj